

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

DR 2000-017624

01/17/2003

HONORABLE MAURICE PORTLEY

CLERK OF THE COURT
C. Danos
Deputy

FILED: 01/23/2003

IN RE THE MARRIAGE OF
LINDA MARIE (CHANCE) CAREY

RICHARD R SEYFFER

AND

LAURENCE DONOVAN CHANCE

CHRISTOPHER S HILDEBRAND

DR BRIAN YEE
7220 N 16TH STREET
BLDG K
PHOENIX AZ 85020
CONCILIATION SERVICES-CCC
DOCKET-FAMILY COURT CCC

DECREE OF DISSOLUTION

The Court conducted the trial and took this matter under advisement.

After a review of the testimony and the exhibits, the Court finds as follows:

1. Petitioner/Mother and Respondent/Father were married on December 1, 1995.
2. They produced two children, Hannah (4.15.96) and Colt (10.11.98).
3. The dissolution petition was filed on September 29, 2000, and served on October 4, 2000.
4. The parties agreed to arbitrate temporary orders and Irwin Bernstein filed his Arbitrator's Award on December 6, 2000.
5. Judge William Topf issued temporary orders on February 12, 2001.

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6. All jurisdictional requirements to dissolve the marriage have been met and the marriage is irretrievably broken.

Based on the evidence presented, applicable statutes and the best interests of the children,
IT IS ORDERED as follows:

DISSOLUTION

- A. The marriage is dissolved and the parties are restored to single status.
- B. Petitioner's maiden name of CAREY is restored to her.

SPOUSAL MAINTENANCE

- C. Neither party is entitled to spousal maintenance.

FAMILY COURT ADVISOR

- D. Brian Yee, Ph.D. is appointed as the Family Court Advisor in this case to implement the parenting plan, monitor compliance and help the parties fine tune it, as necessary.

CUSTODY

- E. The children love their parents, and the parents love their children, though the parents cannot get along, and have accused each other of offenses against the children. Both parents, however, need to play a strong role in the lives of their children and the Court will give them the opportunity to do so as joint custodians of their children.
- F. Mother shall be the primary residential parent.
- G. Mother shall exercise ultimate decision making authority on health, education and religious matters but only after consultation with Father and, if necessary, the Family Court Advisor.

PARENTING TIME and RELATED ISSUES

- H. Father shall have the following parenting time: one day every week, Tuesdays from 3:00 p.m. until 6:00 p.m.; one overnight every week from after school until the following morning, specifically, and absent agreement, Thursday at 3:00 p.m. until Friday at 8:00 a.m.; and every other weekend from Friday at 3:00 p.m. until

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Sunday at 7:00 p.m. If Father's weekend falls on a three day holiday weekend, he shall keep the children until Monday at 6:00 p.m.

- I. The access holiday schedule shall be as follows: Thanksgiving (defined as 8:00 a.m. on the holiday until 8:00 a.m. the next day) shall be alternated with Father getting the children in even-numbered years and Mother getting the children in odd-numbered years; for Christmas Eve and Day (Christmas Eve is defined as Noon that day until 10:00 a.m. the next day, and Christmas Day is 10:00 a.m. until 9:00 a.m. on December 26th), Father shall have the children on Christmas Eve in odd-numbered years and Christmas Day on even-numbered years, and Mother will be with the children on Christmas Eve in even-numbered years and on Christmas Day on odd-numbered years; the children will be with Father on New Year's Eve from Noon until 8:00 p.m. since it is his birthday; New Year's Day (defined as 8:00 a.m. until the following morning at 8:00 a.m.), Father will have the children on even-numbered years and Mother in odd-numbered years; finally, the children will spend Father's Day with Father, Mother's Day with Mother.
- J. During the summer, the months of June, July and August until school starts, each parent, absent agreement to the contrary, can have the children for two one-week periods for vacation with the children. The parties shall exchange vacation dates by May 15th, and Father will have priority in odd-numbered years, and Mother in even-numbered years.
- K. The parents can have telephonic contact with their children when in the other's care, including summer vacation.
- L. Father shall get individual counseling to assist him to identify emotional "trigger points" in his relationship with Mother. The counselor shall be approved by the Family Court Advisor.
- M. Mother and Father shall attend co-parenting counseling, and that counselor shall be approved by the Family Court Advisor.
- N. Both parents' names should be on any registration/emergency forms for the children.
- O. Both parents shall attend the Conciliation Service's high conflict resolution class and submit a certificate of completion not later than **May 1, 2003**. Call 602-506-1448 to schedule a class.

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CHILD SUPPORT

- P. Father's income was a major discovery issue; there were too many motions to compel discovery and two depositions requiring this matter to be continued from time to time. Father never voluntarily provided, or updated, his financial information even though it was requested, and needed, for an appropriate support calculation. Father left KB Homes, started a hauling and construction clean-up business, Jade Grading, ostensibly stopped that and then started a second business, Last Chance Construction, with his brother. At one time Father suggested his monthly income be attributed at \$5000.00, though he suggested \$4500.00 at trial. Based on all the evidence presented, the Court will attribute \$5000.00 per month to Father.
- Q. Mother will provide the medical and dental insurance for the children.
- R. Based on that attribution, Mother's gross monthly income of \$4500.00, child care costs of \$155.00, medical and dental insurance, and parenting time of 132 days, Father's child support obligation shall be \$665.00 per month, as and for child support to be paid through the Clerk of the Superior Court by Order of Assignment, plus the monthly processing fee, beginning **February 1, 2003**, all in accordance with the formal written order signed by the Court.
- S. The parties shall equally divide any medical or dental costs not covered by insurance. The parent incurring the expenses shall provide the other parent with a written accounting, including copies of any bill, whether medication or co-pays, and that parent shall have 35 days to reimburse the expense. If it is not paid within 60 days of the request, it shall bear interest at the rate of 10% per annum, and the non-paying parent will be responsible for any fees and legal costs to collect such sums.
- T. Each parent can take one child for the dependent tax exemption each year. The parent paying child support shall not take the exemption if the child support for the year is not current on December 31st of the applicable tax year.

REAL PROPERTY

- U. Mother purchased a house before the marriage. She later added Father's name to add a second mortgage. Father later signed a quit claim deed. He failed to prove that his signature was fraudulently acquired. As a result, he has relinquished his interest in the home. Therefore, the house is Mother's sole and separate property.
- V. Mother shall be solely responsible for the financial obligations involving her home.

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PERSONAL PROPERTY

- W. Father requests his mountain bike, video camera and gooseneck hitch, and Mother should make those available to him if they remain in her possession.
- X. Personal property in the possession of the parties will remain their sole and separate property. If any of such property, such as vehicles, are encumbered with liens, the lien shall be the obligation of the person possessing the property and indemnify and hold the other harmless for such obligation since the date of service.
- Y. Property acquired after the date of service is the sole and separate property of the acquiring party.

RETIREMENT BENEFITS

- Z. Mother has a pension plan and 403(b) plan. The plans shall be divided by QDRO, except that Mother shall be responsible to repay any sums borrowed from those investments after service of process.
- AA. The parties shall equally share the expense of preparation of the QDRO.

BUSINESS INTERESTS

- BB. Father created two businesses after service of process, Jade Grading and Last Chance Construction. Those are his sole and separate businesses. Mother does not have an interest in the businesses nor exposure to any debts of those businesses.

CONTEMPT

- CC. Mother filed a petition for contempt. It was litigated during the trial. Mr. Harris, the arbiter ordered child support to be paid beginning December 2000 in the amount of \$1178.00. Father paid Mother \$3500.00 directly. Judge Topf later reduced the award to \$1050.00 beginning March 1, 2001. Mother's petition seeks to hold Father in contempt since February 2002. Father paid \$1050.00 on February 7, 2002 and made no payments again until May 22, 2002, when he made a double payment. He paid \$800.00 in June, \$1000.00 in August, \$900.00 in September and \$700.00 on January 16, 2003. Since February 2002 through January 2003, Father owed \$12,600.00 in child support, but only paid \$6550.00. Father owes Mother the principle amount of \$6050.00. Father had the ability to pay child support. Father sought to modify support not because of any reduced

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earning, but because he sought a more equalized access schedule. The Court finds that Father is in contempt for failing to pay his child support obligation from March 1, 2002 through January 31, 2003 in the amount of \$6050.00.

DD. Mother shall have judgment against Father for the arrears on the principle, plus interest on each payment missed or not paid in full, and interest on that total beginning February 1, 2003 until paid in full.

EE. The sanction for the contempt is as follows: (a) Father shall have 90 days to pay one-half of the arrears and then 90 days thereafter to pay the balance; and (b) reasonable fees and costs. If Father fails to make the payments, the Court may issue a civil arrest warrant and set the principle as the purge amount.

ATTORNEY'S FEES

FF. Although the income of the parties are relatively close, Father's failure to provide discovery timely extended this matter substantially. Accordingly, Mother will be entitled to a reasonable contribution towards her attorney's fees for the delay Father caused, as well as his failure to pay child support as required under Judge Topf's order. Counsel should file his China Doll Affidavit to assist the Court in determining what is reasonable in this case.

FILED: Exhibit Worksheet; Child Support Worksheet [Court].

IT IS FURTHER ORDERED signing this minute entry as a formal written Order of the Court, pursuant to Rule 58(a) and waiving the requirements of Rule 58(d), Arizona Rules of Civil Procedure.

/S/ HONORABLE MAURICE PORTLEY

JUDICIAL OFFICER OF THE SUPERIOR COURT